



Director's Order 108

Reimbursable Agreements Between State Departments of Transp and the Fish and Wildlife Service for Transportation Planning Ac

Date: March 12, 1999

Originating Office: Division of Habitat Conservation

**United States Department of the Interior
FISH AND WILDLIFE SERVICE
Washington, D.C. 20240**

DIRECTOR'S ORDER NO: 108

**Subject: Reimbursable Agreements Between State Departments of Transportation and the Fish and Wildlife Service
for Transportation Planning Activities**

Sec. 1 What is the purpose of this Order? This Order provides uniform guidance for implementing reimbursable agreements between the Fish and Wildlife Service and State Departments of Transportation (DOT). We will focus the use of reimbursable funds on cooperative activities with State DOT's in the pre-scoping and scoping stages of transportation planning, when environmental concerns can be resolved most effectively.

Sec. 2 What is the scope of this Order? This Order applies to funding opportunities for field offices, Regional Offices, or Washington Office divisions involved in early coordination and environmental review of transportation projects funded by the Federal Highway Administration, not otherwise covered by existing appropriations to the Service.

Sec. 3 Who provides funds for transportation projects?

a. The Federal Highway Administration provides funds to the States for the construction and rehabilitation of transportation projects. States may transfer Federal and/or State funds to us in accordance with a reimbursable agreement.

b. We will be flexible, consistent with our existing policy and procedures, in meeting various contracting and administrative procedures of the State DOT's in implementing reimbursable agreements.

Sec. 4 What are the authorities for transferring funds from the States to the Service?

a. Fish and Wildlife Coordination Act, 16 U.S.C. 661 et seq.

b. Fish and Wildlife Act of 1956, 16 U.S.C. 742f(a)(4).

c. Intergovernmental Cooperation Act of 1968, 42 U.S.C. 4201 et seq.

d. Transportation Equity Act for the 21st Century (TEA-21), section 1309(e).

Sec. 5 What should you include in the reimbursable agreement? Exhibit 1 is a sample

reimbursable agreement. Agreements may vary in content, depending on time period, scope, State procedures, required approval signatures, etc.

a. Responsibilities. Define respective responsibilities, the type(s) of early coordination activities to be accomplished, services or products expected of each of the parties, and time lines for producing such services or productions, if appropriate.

b. Indirect cost rates. Incorporate indirect cost rates in accordance with the Service cost recovery policy (264 FW 2). The Director will approve waivers to the standard overhead rate or reduced rates only under special, unusual circumstances in accordance with 264 FW 2.4B. Director's memorandum of July 27, 1998, prescribes rates for Fiscal Years 1999 and 2000.

c. Documentation for costs. Negotiate and include as part of the agreement, what documentation will be provided to substantiate costs billed to the reimbursable agreement. The Service's Federal Financial System provides standardized reports on a monthly basis that detail costs charged to the reimbursable projects. In some cases, you may use these reports to substantiate billed costs. To avoid billing disputes, establish additional requirements for documentation. Service offices are responsible for collecting and providing any additional cost data.

d. Contacts. Include the names of principal contacts for each party and names of officials who are authorized to sign the reimbursable agreements.

e. Modifications and disputes. Incorporate clauses for modifications and for settlement of disputes.

f. Billing information. Clearly state billing and payment provisions. Define the frequency of billing (quarterly or monthly), state that payments need to be received within 30 days of issuance of the bill, and include a requirement that payments will be sent to the Service Finance Center, attention: Cost Accounting Section. Regional Budget and Finance Offices can provide assistance on formulating financial provisions for agreements.

g. Termination clause. Include a termination clause applicable to all parties to the agreement.

Sec. 6 Can we establish long-term funding agreements?

a. Reimbursable agreements can be for short-term, individual transportation projects or for longer term activities that may include staff appointments (i.e., term FTE's).

b. Field offices will work with the State DOT's on a continuing basis to establish long-term, mutually beneficial funding arrangements to ensure early Service involvement and continuity of achieved fish and wildlife conservation benefits.

c. Negotiate term appointments for 1 to 4 years, and you may include annual renewable clauses in the agreement.

Sec. 7 Are term Service employees entitled to any benefits? Term Service employees are entitled to benefits and other rights prescribed in 5 CFR 316. Funds for term appointments must be sufficient to cover all Government costs (e.g., salary, benefits, travel, overhead, etc.).

Sec. 8 What is the effective date of this Order? This Order is effective immediately. It will expire on March 31, 2000, unless it is amended, superseded, or revoked? We will include the provisions of this Order in Part 505 of the Fish and Wildlife Service Manual.

/s/ JAMIE RAPPAPORT CLARK
DIRECTOR

Date: March 12, 1999

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